

# Determination of Application to Vary a Premises Licence – Unit 4, 1-8 Manchester Road, Swindon SN1 2AB

**Licensing Panel**

**Date: 5<sup>th</sup> July 2017**

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Wards: Central  
Parishes Affected: Swindon Central South

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## **1. Purpose and Reasons**

- 1.1 To consider and determine the application to vary the premises licence in respect of Nasza Biedronka, Unit 4, 1-8 Manchester Road, Swindon SN1 2AB.

## **2. Recommendations**

### That The Panel:

- 2.1 Consider the application to vary the existing premises licence made by Mohammed Rasul Kader, taking into account the representation made by a local resident. The options available to the Licensing Panel are:
- To grant the application in its current form with conditions consistent with the operating schedule and those previously accepted by the applicant from Wilshire Police
  - To grant the application but to modify the conditions by amending, omitting or attaching new conditions or;
  - To reject the application in whole or in part.

## **3. Detail**

- 3.1 An application to vary an existing premises licence is made by Mohammed Rasul Kader in respect of Unit 4, 1-8 Manchester Road, Swindon SN1 2AB.
- 3.2 The premises known as Nasza Biedronka Unit 4, 1-8 Manchester Road was granted an 'Off Sales' licence at a panel hearing on 15<sup>th</sup> January 2016.
- 3.3 The licence 881150589LAPRE which was granted by the Licensing Panel on 15<sup>th</sup> January 2016 will be surrendered if this application is successful. A copy of this application is attached as **APPENDIX A**.
- 3.4 The variation application seeks the following;
- i) To include Units 5 and 6, in addition to Unit 4
  - ii) To extend the hours the premises is open to the public, Monday to Sunday from 08:00 until 23:00 and,

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- iii) To enable the sale by retail of alcohol for consumption off the premises, Monday to Sunday from 08:00 to 23:00.
- 3.4 The applicant has accepted conditions requested by Swindon Borough Council's Licensing Manager and Wiltshire Police.
- 3.5 A representation has been received from one resident who considers that the licensing objective in respect of the Prevention of Crime and Disorder, and Public Nuisance will be undermined should the application be granted in its current form.
- 3.6 The representation is attached as **APPENDIX B**.
- 3.7 When considering the application and objection notice, the Panel must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 and also the Licensing Authority's Statement of Licensing Policy. Furthermore, the decision must be made with a view to promoting the licensing objectives. The decision and reasons for the decision should be provided in writing.
- 3.8 The applicant has a right of appeal against a decision to reject the application and the Chief Officer of the Police has a right of appeal against a decision to grant the application. Any such appeal must be commenced by way of notice of appeal given by the appellant to the designated officer for the local magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision being appealed against.

#### **4. Alternative Options**

- 4.1 It would be possible to defer the determination of the application to a date within five working days of the day (or the last day) on which the hearing was held, or to defer the hearing itself to a specified date (or dates) where it is considered to be necessary for the authority's consideration of any representation or notice made by a party. However, either step should be seen as an exceptional measure.

#### **5. Implications, Diversity Impact Assessment and Risk Management**

##### Financial and Procurement Implications

- 5.1 There are no direct financial implications arising from the report.

##### Legal and Human Rights Implications

- 5.2 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to

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undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are ‘possessions’, which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

### 5.3 All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

This report relates to the requirements of licensing legislation. The decision must be made with a view to promoting the statutory licensing objectives, which include the prevention of crime and disorder. There are no other implication to be considered.

### 5.4 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

### 5.5 **Consultees**

The Director of Finance (Section 151 Officer) and the Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

### 5.6 **Background Papers**

Licensing Act 2003

Secretary of State revised Section 182 Guidance

Licensing Authority Statement of Licensing Policy

### 5.7 **Appendices**

Appendix A - Application to vary the premises licence to specify an individual as the premises supervisor made on 14 April 2015.

Appendix B – Objection notice from the Chief Officer of Wiltshire Police.

Appendix C – Current Premises Licence Part A